



UNITED STATES SUPREME COURT

NUMBER 89-775

MACK W. FORD

RESPONDENT

AGAINST

ARVIS E. WHITMAN,  
SHERIFF, BIENVILLE  
PARISH

PETITIONER

APPLICATION FOR WRITS ON  
BEHALF OF ARVIS E. WHITMAN,  
SHERIFF, BIENVILLE PARISH

SUBMITTED BY:

BOBBY L. CULPEPPER  
ATTORNEY AT LAW  
P. O. DRAWER E  
JONESBORO, LOUISIANA 71251  
ATTORNEY FOR PETITIONER

I N D E X

	<u>PAGE NO.</u>
1. Index . . . . .	1
2. Table of Authorities. . .	11
3. Opinions Below . . . . .	2
4. Jurisdiction . . . . .	4
5. Questions Presented . . .	5
6. Statutory Provisions . .	7
7. Statement of the Case . .	9
8. Summary of the Argument .	11
9. Argument and Law in Support of Allowance of Writ . . . . .	15
10. Conclusion and Prayer . .	26
11. Certificate . . . . .	27
12. Appendix . . . . .	1A

## TABLE OF AUTHORITIES

<u>CASES:</u>	<u>PAGE NO.</u>
Caplin vs. Oak	25
(1973) 356 F. Supp. 1250	
District of Columbia vs. Carter	16
(1973) 409 U.S. 418, 34 La. Ed 2d 613, 93 S. Ct. 602, rehearing denied, 410 U.S. 958, 35 L. Ed 2d 694, 93 S. Ct. 1411	
Guzman vs. Western State Bank of Devil's Lake	23
540 F. 2d 948 (8th Cir., 1976)	
Pritchard vs. Perry	20
(1975) 508 F. 2d 423	
Stolberg vs. Members of the Board of Trustees	24
474 F. 2d 485	
Sullivan vs. Little Hunting Park	21
396 U.S. 229, 90 S. Ct. 400	

## TABLE OF AUTHORITIES

## PAGE NO.

Vincent vs. Morgan's  
Louisiana and T. R. and  
S. S. Company 22

140 La. 1027, 74 So.  
541 (1917)

STATUTES:

28 U.S.C. § 1254(1)	4
42 U.S.C. § 1983	5
Louisiana Civil Code, Article 2315	6

IN THE SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM, 1979

NO. \_\_\_\_\_

MACK W. FORD

RESPONDENT

against

ARVIS E. WHITMAN,  
SHERIFF, BIENVILLE  
PARISH

PETITIONER

PETITION FOR WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

ARVIS E. WHITMAN, SHERIFF, BIENVILLE  
PARISH, respectfully prays that a writ of  
certiorari issue to review the Judgment  
of the United States Court of Appeals  
for the Fifth Circuit, on rehearing,  
entered in the above case on  
September 12th, 1979.

OPINIONS BELOW

The original opinion of the United States District Court for the Western District of Louisiana was rendered under Docket Number 76-1210, with Reasons for Judgment being rendered orally on November 14th, 1977 and Judgment being rendered and filed on November 16th, 1977, a copy of said Judgment is attached hereto and made a part hereof and are appended to this petition in the Appendix at page numbers 1A, et seq. The original Judgment of the United States Court of Appeals for the Fifth Circuit is an unreported case, bearing docket numbers 77-3510 and 79-1006, summary calendar, a copy is attached hereto and appended to this petition in the Appendix, page 12A.

A petition for rehearing was filed timely before the United States Court of Appeals for the Fifth Circuit, said petition for rehearing being denied on September 12th, 1979, said rehearing having been filed in the United States Court of Appeals also on September 12th, 1979, a copy is attached hereto and appended to this petition in the Appendix, page 14A.

JURISDICTION

The Judgment of the Court of Appeals for the Fifth Circuit, on rehearing, having been rendered on September 12th, 1979 and filed on said date, the jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

QUESTIONS PRESENTED

Three primary questions are presented to this Honorable Court for review and determination. It is submitted that the Honorable District Court below, as affirmed by the Honorable Fifth Circuit Court of Appeals erred in finding that there was a civil rights violation in this matter. It is respectfully submitted that the facts as presented by this case do not fall within the jurisdiction of 42 U.S.C. § 1983.

As such, petitioner herein seeks the review of the decision by the Honorable District Court, as affirmed by the Honorable Court of Appeals, below, in awarding \$4,000.00 as damages plus attorneys fees and Court costs.

Lastly, a review of the decision to award punitive damages is sought.

It is submitted that the law of the State of Louisiana should have been applied insofar as a determination as to whether or not to award punitive damages, and that since such punitive damages may not be awarded under Louisiana Civil Code, Article 2315, the Honorable Courts below erred in awarding said punitive damages.

STATUTORY PROVISIONS

The instant case involves 42 U. S. Code § 1983, quoted below:

"Section 1983. Civil Action for Deprivation of Rights.

Every person who, under color of any statute, ordinance, regulation, custom or usage, of any state or territory, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

It is respectfully submitted that Louisiana Civil Code, Article 2315 is also controlling, particularly insofar as the imposition of punitive damages is concerned. In pertinent part, Louisiana Civil Code, Article 2315 provides, as follows:

"Article 2315. Liability for  
Acts causing Damage; Survival  
of Action.

Article 2315. Every act whatsoever of man that causes damage to another obliges him by whose fault it happened to repair it.

\* \* \* \*

STATEMENT OF THE CASE

MAY IT PLEASE THE COURT:

This is an action arising out of the Federal Civil Rights Act, 42 USCA 1983 and 1988, et seq., and is an action for punitive and compensatory damages.

It is uncontested that plaintiff was arrested on December 22, 1975 on charges of aggravated criminal damage to property. He posted bond and was released on that date. He was subsequently notified by members of the Bienville Parish Sheriff's Department to return to the Sheriff's Office for the purpose of posting new bond. On his arrival, plaintiff entered Sheriff Whitman's office. During the ensuing discussion, plaintiff was struck by the defendant, Whitman. As a result, plaintiff did incur some injuries.

After trial in the District Court, plaintiff was awarded the sum of \$4,000.00 as punitive damages for violations of his civil rights. In addition, plaintiff was awarded attorney fees and court costs. On rehearing, petitioner's application was denied. Petitioner respectfully submits that there are substantial questions involved and writs of certiorari should be granted, to review the Judgment of the Honorable Fifth Circuit Court of Appeals, on rehearings, which affirmed the District Court below and Circuit Court on appeal.

#### SUMMARY OF THE ARGUMENT

I. IT IS PETITIONER, WHITMAN'S POSITION THAT THE HONORABLE COURTS BELOW ERRED IN FINDING THAT THERE WAS ANY CIVIL RIGHTS VIOLATION IN THIS MATTER.

It is respectfully submitted that a review of the evidence admitted in this case reveals that defendant, Whitman's actions were all performed in his personal capacity and had nothing to do with his position as Sheriff. It is respectfully submitted that defendant did not deprive plaintiff of any of his Constitutional rights under color of any statute.

Defendant Whitman met the plaintiff in the hall when plaintiff returned to make sufficient bond. At that time, defendant Whitman told plaintiff that he would like to discuss a personal matter in his office. After plaintiff and

defendant Whitman entered the Sheriff's Office, defendant questioned plaintiff in regard to some remarks plaintiff allegedly made regarding defendant Whitman and his wife. The essence of these remarks was that defendant Whitman was a "whoremonger" and that defendant Whitman and his wife were living together illegitimately. Defendant freely admitted that he was extremely angry and that he did use abusive language. Plaintiff made a statement which defendant Whitman interpreted as an admission that he had made such statement and defendant Whitman struck the plaintiff approximately three times. At trial, plaintiff did admit that he had probably told Andy Tolbert that the Sheriff was living with a woman to whom he was not married. Also, plaintiff clearly admitted that defendant Whitman

did make the statement that this was a personal matter. Also, plaintiff admitted that the Sheriff did not attempt to keep him in his office and that plaintiff did not attempt to leave.

As a result of the above, it is defendant Whitman's position that plaintiff was well aware that the entire incident was a personal matter and certainly plaintiff had no other impression and therefore there was no civil rights violation in this matter.

II. THE HONORABLE COURTS BELOW ERRED IN AWARDING DAMAGES TO PLAINTIFF IN THE AMOUNT OF \$4,000.00 PLUS ATTORNEY'S FEES AND COURT COSTS.

From the entire evidence in this case, it is very clear that any physical damage plaintiff suffered was minimal at worse. The award of

\$4,000.00 is an award for punitive damage and it is petitioner's position that an award in this amount was certainly inappropriate under the facts of this case.

III. THE HONORABLE COURTS BELOW ERRED IN AWARDING PUNITIVE DAMAGES UNDER THE CIRCUMSTANCES OF THIS CASE.

Considering the special factual circumstances of this case, it is petitioner Whitman's position that in the event that the Courts below found that there was some civil rights violation by the defendant, the facts of this case make the awarding of punitive damages inappropriate.

ARGUMENT AND LAW  
IN SUPPORT OF  
ALLOWANCE OF WRIT

I. THE COURTS BELOW ERRED IN FINDING THAT THERE WAS ANY CIVIL RIGHTS VIOLATION IN THIS MATTER.

As both plaintiff and defendant Whitman testified, it was made very plain to plaintiff that the matter was a personal one between plaintiff and defendant Whitman. Plaintiff himself admitted that defendant made this statement. Additionally, the matters discussed in the Sheriff's Office were clearly personal and did not relate to a public matter.

It is very clear that 42 USCS 1983 is limited and deals only with those deprivations or rights which are accomplished under color of law of any state or territory and does not reach

purely private conduct. District of Columbia vs. Carter, (1973), 409 U.S. 418, 34 L. Ed. 2d 613, 93 S.Ct. 602, rehearing denied, 410 U.S. 958, 35 L. Ed 2d 694, 93 S.Ct. 1411. It is defendant Whitman's position that the facts of this case clearly place this situation as a purely private conduct.

In this case, defendant Whitman did not arrest plaintiff and certainly had nothing to do with the charges lodged against him. Sheriff Whitman testified at page 80 of the record that he asked plaintiff to come into his private office; that he had a personal matter he would like to discuss with plaintiff. The Sheriff indicated that this was the first time he had seen plaintiff since the election. After plaintiff entered his office, defendant started questioning plaintiff in regard to some remarks

plaintiff had allegedly made in regard to defendant and his wife. These remarks in essence were to the effect that defendant was a "whoremonger" and that defendant and his wife were living together illegitimately. Plaintiff denied making such remarks, whereupon defendant phoned Andy Tolbert, to whom plaintiff had allegedly made such remarks.

After Mr. Tolbert arrived at the Sheriff's Office, plaintiff made a remark which defendant interpreted as an admission of guilt, whereupon Sheriff Whitman struck the plaintiff two to three times. As a result of this action, plaintiff suffered a nose bleed.

Plaintiff himself conceded at page 114 of the record that he probably had told Tolbert that the Sheriff was living with a woman with whom he was not

married, but did not recall saying that the Sheriff was a "whoremonger", but from the article which had been entered into evidence indicated that a person could insinuate that.

The plaintiff conceded that the Sheriff did not attempt to keep plaintiff in his office and plaintiff did not attempt to leave. Plaintiff did tell defendant that he was not there to fight him.

It is respectfully submitted that when all of the above circumstances are taken into consideration, it is very clear that defendant, Sheriff Whitman, did not act in his official capacity under color of state law and therefore cannot be found to have violated plaintiff's civil rights.

II. THE HONORABLE COURTS BELOW ERRED IN AWARDING DAMAGES TO PLAINTIFF IN THE AMOUNT OF \$4,000.00, PLUS ATTORNEY'S FEES AND COURT COSTS.

In the Minute Entry on page 54, it is clearly indicated that the total damages awarded in the amount of \$4,000.00 was punitive damages. It is respectfully submitted that the circumstances in this case certainly do not warrant such an award for damages.

Considering the admissions by plaintiff and the natural import such accusations by plaintiff would have upon an average person, it is respectfully submitted that the anger and subsequent actions taken by Sheriff Whitman were certainly understandable at least to some extent. In this case, certainly plaintiff cannot be considered to be blameless under the facts of this

case. Courts have previously implied in other cases that an infringement of personal liberty which results in only a short period of restraint or involves no physical injury may go in mitigation of damages. Pritchard vs. Perry (1975) 508 F. 2d 423.

It is respectfully submitted that the physical damage incurred by the plaintiff was clearly minimal and considering the provocation of defendant by plaintiff, certainly such an award is not warranted nor justified by evidence admitted at trial.

Additionally, it is counsel's position that consideration must be given to the actions which caused the alleged battery committed by Sheriff Whitman. This case is neither appropriate nor needful of the imposition of punitive damages in the

award given. As counsel for Ford specifically indicates, in Sullivan vs. Little Hunting Park, 396 U.S. 229, 90 S. Ct. 400, at 406 (1969), the Court noted that the rule is simply to apply both Federal and State rules on damages "whichever" better serves the policies expressed in the Federal Statutes". As counsel reads this rule, the application of the rule that punitive or exemplary damages may be imposed should hinge on the facts of the case. A careful review of this case, when viewed in light of the substantive Louisiana law, clearly indicates that while the Doctrine of Justification may not be present in this case, the "Doctrine of Mitigation of Damages" is in effect. As such, the Court would serve the best interest of the parties at interest in this case, together with

the substantive and procedural application of 42 U.S. Code, Section 1983, by disallowing the award of attorney's fees and costs in this matter.

Herein, state law should be looked to where justice would be served by disallowing the award of attorney's fees.

Our Louisiana Code, specifically Article 2315, may be reviewed in vain to find the imposition of attorney's fees in cases such as this.

Counsel would specifically refer Your Honors to Vincent vs. Morgan's Louisiana and T. R. and S. S. Company, 140 La. 1027, 74 So. 541 (1917).

Therein, the Court clearly notes that in a civil action for personal injury arising from the fault of another, the law does not allow the increase of actual and compensatory damages by pecuniary

damages in the form of exemplary or punitive damages. It is counsel's position that a review of the federal cases which allow compensatory damages do not mandate them, but rather, simply allow them. See for example the case of Guzman vs. Western State Bank of Devil's Lake, 540 F. 2d 948 (8th Cir., 1976).

It is counsel's position that the Honorable Trial Court below erred in applying punitive damages in the form of costs and attorney's fees.

As originally submitted in the original brief in this matter, it is respectfully submitted that the physical damage incurred by the plaintiff was clearly minimal and considering the provocation of defendant by plaintiff, an award of attorney's fees and costs, as punitive and exemplary damages, is not warranted nor justified by the evidence admitted at trial.

III. THE HONORABLE COURTS BELOW ERRED  
IN AWARDING PUNITIVE DAMAGES HEREIN.

While it is clear that punitive damages may, in appropriate cases, be awarded for violation of 42 U.S.C.S. 1983, even in absence of actual damages, it is respectfully submitted that the facts of this case do not warrant such punitive damages. Stolberg vs. Members of the Board of Trustees, 474 F. 2d 485.

It is respectfully submitted that this case is very similar to the facts in the case styled "James vs. Lusby" (1974), 499 F. 2d 488. In that case, it was uncontested that petitioner shouted obscenities at the policeman, and there was no clear evidence of abusive conduct by the arresting officer. Further, there was a failure of petitioner to mitigate the impact of the alleged wrongful acts and therefore

the Court found that punitive damages were inappropriate. It has been held in other cases that punitive damages are warranted in civil rights action only if there was a showing of bad faith of some indication of a deterrent impact. Caplin vs. Oak (1973) 356 F. Supp. 1250. In this case, there is certainly no indication that such an award would have a deterrent impact. Additionally, considering that the Sheriff clearly indicated that the matter was a personal one and that plaintiff acknowledged it as such, it is respectfully submitted that there is no showing of bad faith and therefore a punitive damage should not be awarded.

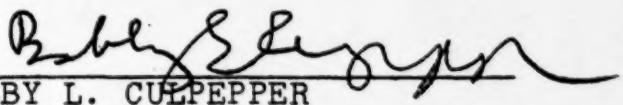
CONCLUSION AND PRAYER

Based upon the above facts and authorities, petitioner urges that the decisions of the Courts below in this matter are manifestly and clearly erroneous.

WHEREFORE, petitioner, SHERIFF ARVIS E. WHITMAN prays that a writ of certiorari issue to review the Judgment of the United States Court of Appeals for the Fifth Circuit.

Further prays for all necessary orders and decrees and for just and equitable relief.

BOBBY L. CULPEPPER  
ATTORNEY AT LAW  
P. O. DRAWER E  
JONESBORO, LOUISIANA 71251

  
BOBBY L. CULPEPPER

C E R T I F I C A T E

I hereby certify that a copy of the foregoing Application for Writs has been served upon Mack W. Ford by mailing a copy of same in the United States mail, postage prepaid, addressed to Mr. Dee D. Drell, Gravel, Roy & Burnes, Attorneys at Law, P. O. Box 1792, Alexandria, Louisiana 71301, and to defendant, Andy Tolbert, by mailing a copy of same to John B. Benton, Jr., P. O. Box 740, Minden, Louisiana 71055 and to other counsel, by mailing a copy of same to Mr. Alex F. Smith, Jr., Mayer, Smith & Roberts, Attorneys at Law, 307 Wall Street, Shreveport, Louisiana 71104.

Jonesboro, Louisiana this the

13 day of November, 1979.

  
BOBBY L. CULPEPPER

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION

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MACK W. FORD

VERSUS CIVIL ACTION NO. 76-1210  
ARVIS E. WHITMAN

---

J U D G M E N T

This action having come on for trial  
before the Court, Honorable Tom Stagg,  
District Judge, presiding, and the issues  
having been duly tried and a decision  
having duly been rendered, and reasons  
given orally in Court:

IT IS ORDERED, ADJUDGED AND DECREED  
that there be judgment in favor of  
plaintiff, Mack W. Ford, and against  
defendant, Arvis E. Whitman, in the  
amount of \$4,000.00.

IT IS FURTHER ORDERED, ADJUDGED AND  
DECREED that the costs of this action be

A P P E N D I X

taxed to the defendant, and that a reasonable attorney's fee be included as costs of the action, said fee to be determined by the Court at a later date.

DATED at Shreveport, Louisiana, this 16th day of November, 1977.

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TOM STAGG  
UNITED STATES DISTRICT JUDGE  
ENTERED NOVEMBER 16, 1977

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT  
NO. 77-3510

MACK W. FORD

PLAINTIFF-APPELLEE,  
CROSS APPELLANT,

VERSUS

ARVIS E. WHITMAN, DEFENDANT-APPELLANT,  
SHERIFF, BIENVILLE CROSS-APPELLEE  
PARISH

Appeals from the United States District  
Court for the  
Western District of Louisiana

Before GOLDBERG, AINSWORTH and HILL,  
Circuit Judges.

BY THE COURT:

IT IS ORDERED that appellee's motion for remand of the record to the United States District Court for the Western District of Louisiana for a determination of attorney's fees is GRANTED.

MINUTE ENTRY

STAGG, J.

October 23rd, 1978

MACK W. FORD

VERSUS CIVIL ACTION #76-1210

ARVIS E. WHITMAN SHREVEPORT DIVISION

\* \* \*

On November 14, 1977, the court rendered judgment in favor of plaintiff, Mack W. Ford and against defendant, Arvis E. Whitman, in the amount of \$4,000. as punitive damages for a willful violation of the plaintiff's civil rights. The court also awarded a reasonable attorneys fee for plaintiff to be determined upon submission of an affidavit of counsel's time and expenses.

While some additional services were required between the filing of the affidavit and the appeal, counsel for plaintiff has informed the court that

they were not substantial and that no additional fee should be awarded.

Accordingly, this award will encompass all work performed before this court.

Having reviewed the statement of time and expenses and the defendant's opposition, and taking into account the factors discussed in Johnson vs. Georgia Highway Express Co., 488 F. 2d 714 (5th Cir. 1974), particularly the customary fee in this area and the undesirability of this type of case, the court finds that a reasonable attorney's fee is \$2,000. together with expenses of \$600.26.

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION

MACK W. FORD

VERSUS CIVIL ACTION NO. 76-1210  
ARVIS E. WHITMAN

J U D G M E N T

For the reasons assigned in the foregoing minute entry,

IT IS ORDERED that plaintiff, Mack W. Ford, recover from defendant, Arvis E. Whitman, the sum of TWO THOUSAND SIX HUNDRED AND 26/100 (\$2,600.26) DOLLARS as a reasonable attorney's fee and expenses.

THUS DONE AND SIGNED in Chambers  
at Shreveport, Louisiana, this 23rd day  
of October, 1978.

TOM STAGG  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

NOS. 77-3510 & 79-1006

## SUMMARY CALENDAR\*

MACK W. FORD Plaintiff-Appellee,  
VS. Cross Appellant,

ARVIS E. WHITMAN, Defendant-Appellant,  
SHERIFF, BIENVILLE Cross Appellee.  
PARISH

Appeals from the United States District  
Court for the Western District of Louisiana

(AUGUST 14, 1979)

Before COLEMAN, FAY and RUBIN,  
Circuit Judges.

PER CURIAM.

\*Rule 18, 5 Cir., see Isbell Enterprises, Inc. v. Citizens Casualty Company of New York, Et Al, 5 Cir., 1970, 431 F.2d 409, Part I.

In this case, tried to the District Judge without the intervention of a jury, Reverend Mack Ford was awarded damages against the Sheriff of Bienville Parish, Louisiana, in the sum of \$4,000. for a physical assault committed by the Sheriff upon Ford in the Sheriff's Office on December 19, 1975. The undisputed evidence established that the Sheriff had caused Ford to be called back to the Sheriff's Office in the Courthouse, after hours, to furnish new bail in a case pending against Ford. He was called into the Sheriff's Office, where the Sheriff questioned Ford about some scandalous remarks which Ford had allegedly made about him and then struck him about the face and head at least three times.

On appeal, the Sheriff contends that this was a personal matter, not a violation of Ford's constitutional rights committed under color of state law.

Under the facts and circumstances here presented this contention is altogether untenable and the judgment of the District Court, including an award of punitive damages is summarily affirmed in keeping with the provisions of 42 U.S.C., §1983. See, in particular, Gore vs. Turner, 5 Cir., 1978, 563 F.2d 159; Jacobs vs. City of New Orleans, 5 Cir., 1973, 484 F.2d 24; Lee vs. Southern Home Sites Corporation, 5 Cir., 1970, 429 F. 2d 290.

We likewise affirm the judgment of the District Court awarding the prevailing plaintiff the sum of \$2,600.26 attorney's fees and expenses, the Civil Rights Attorney's Fees Awards Act of 1976; Crowe vs. Lucas, 5 Cir., 1979, 595 F.2d 985; Morrow vs. Dillard, 5 Cir., 1978, 580 F. 2d 1284.

The case will be remanded to the District Court for the purpose of determining the amount of attorney's fees due for the defense of this appeal,

Claiborne vs. Illinois Central Railroad,

5 Cir., 1978, 583 F.2d 143.

Ford's cross appeal, alleging inadequacy of damages, is dismissed as untimely. See Rule 4(a), Federal Rules of Appellate Procedure. Appellee's cross appeal should have been filed no later than December 27, 1977, but was not filed until January 20, 1978.

In any event, had the cross appeal been timely filed, it would have been of no avail for the reason that the damages awarded by the Court were well within its discretion, considering the law and the evidence, and not subject to revision here on behalf of either the appellant or appellee.

On direct appeal, AFFIRMED, and REMANDED for the determination of appellate attorney's fees on appeal.

The cross appeal is DISMISSED.

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

NO. 77-3510  
79-1006  
SUMMARY CALENDAR

D. C. DOCKET NO. CA-76-1210

MACK W. FORD Plaintiff-Appellee,  
VERSUS Cross-Appellant

ARVIS E. WHITMAN, Plaintiff-Appellee,  
SHERIFF, BIENVILLE Defendant-Appellant,  
PARISH Cross-Appellee.

Appeals from the United States District Court for the Western District of Louisiana

Before COLEMAN, FAY and RUBIN, Circuit Judges.

J U D G M E N T

This cause came on to be heard on the transcript of the record from the United States District Court for the Western District of Louisiana, and was

taken under submission by the Court upon the record and briefs on file, pursuant to Rule 18;

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court that the judgment of the said District Court in this cause be, and the same is hereby affirmed; and that this cause be, and the same is hereby remanded to the said District Court in accordance with the opinion of this Court; the cross appeal is dismissed;

It is further ordered that the defendant-appellant pay to the plaintiff-appellee the costs on appeal, to be taxed by the Clerk of this Court.

August 14, 1979

ISSUED AS MANDATE: SEP. 20, 1979

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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NO. 77-3510

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MACK W. FORD Plaintiff-Appellee,  
VERSUS Cross-Appellant,  
ARVIS E. WHITMAN, Defendant-Appellant,  
SHERIFF, BIENVILLE PARISH Cross-Appellee.

\* \* \* \* \*

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NO. 79-1006

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MACK W. FORD Plaintiff-Appellee  
VERSUS  
ARVIS E. WHITMAN, Defendant-Appellant,  
SHERIFF OF BIENVILLE PARISH

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Appeals from the United States District  
Court for the  
Western District of Louisiana

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ON PETITION FOR REHEARING

(SEPTEMBER 12, 1979)

Before COLEMAN, FAY and RUBIN, Circuit  
Judges.

PER CURIAM:

IT IS ORDERED that the petition for  
rehearing filed in the above entitled  
and numbered cause be and the same is  
hereby DENIED.

ENTERED FOR THE COURT:

UNITED STATES CIRCUIT JUDGE

RESPECTFULLY SUBMITTED,

  
BOBBY L. CULPEPPER  
ATTORNEY AT LAW  
P. O. DRAWER E  
JONESBORO, LOUISIANA 71251